

MEMORANDUM

JUNE 18, 1987

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: LINDA BOURQUE, ASSISTANT DIRECTOR FOR NEIGHBORHOOD
PLANNING AND ZONING, AND
MITCHELL L. FISCHMAN, DEPUTY ASSISTANT DIRECTOR
FOR DEVELOPMENT AND URBAN DESIGN

SUBJECT: RECOMMENDATION TO REAFFIRM ZONING RELIEF FOR 420
BOYLSTON STREET IN THE BACK BAY, AND CERTIFICATION THAT
PROJECT HAS BEEN SUBJECT TO DESIGN REVIEW

SUMMARY: This memorandum requests the Authority to reaffirm its recommendation for zoning relief for the 420 Boylston Street project and for certification that the project has been subject to design review. Specifically, it requests the reaffirmation of its recommendation that parapet setback relief from the provision of Text Amendment No. 87 be granted, and further, to certify that the project has been subject to design review. On December 18, 1986, the Board made findings that such recommendations were warranted and reviewed the design in connection with the Development Impact Project Agreement review. This technical relief sought by A.W. Perry, Inc. is needed to reaffirm the original approval because permanent zoning in the area, which is technically different but substantially identical, was established in the time between the initial approvals being granted and before a full building permit could issue.

A.W. Perry, Inc. proposes to rehabilitate and redevelop an office building at 420 Boylston Street. The Project will renovate a 1905 building having Boston landmark status, consisting of 93,275 square feet, of which 14,063 square feet is retail space and the remainder was until recently office and wholesale display areas. The project will include construction of a covered atrium, an infill along the service alley side of the building, and an architectural balustrade removed in the 1930's. When completed, the project will consist of approximately 100,765 square feet office space and 12,965 square feet of retail space. The project site is approximately 17,788 square feet, currently covered by the

building to be renovated, and is bounded by Boylston Street, Berkeley Street and Providence Street. The developer proposes to improve sidewalks adjacent to the building on Boylston, Berkeley and Providence Streets.

The Board on December 18, 1986 voted to authorize the Director in the name of and on behalf of the Authority to execute a Development Impact Project Agreement in a form found to be appropriate. On that date the Board also recommended approval of certain zoning relief under the then effective Boylston Street Interim Planning Overlay District (IPOD) if the final design plans were approved by the Director of the Authority.

A petition for the necessary permits and variances was heard by the Board of Appeal on February 24, 1987, and the decision granting the zoning relief requested from the requirements of the IPOD was recorded with the Inspectional Services Department on April 10, 1987, but no building permit was issued.

Effective April 2, 1987, however, the Zoning Commission adopted Text Amendment No. 87, which establishes the permanent zoning for the area previously designated the Boylston Street IPOD. The new provisions require parapet setbacks which are substantially identical to those contained in the IPOD, but which are technically different from those which were previously in effect and for which the Board of Appeal granted relief. Text Amendment No. 87 also reinstated a small setback parapet requirement at the rear of the building along Providence Street which was not required by the IPOD provisions.

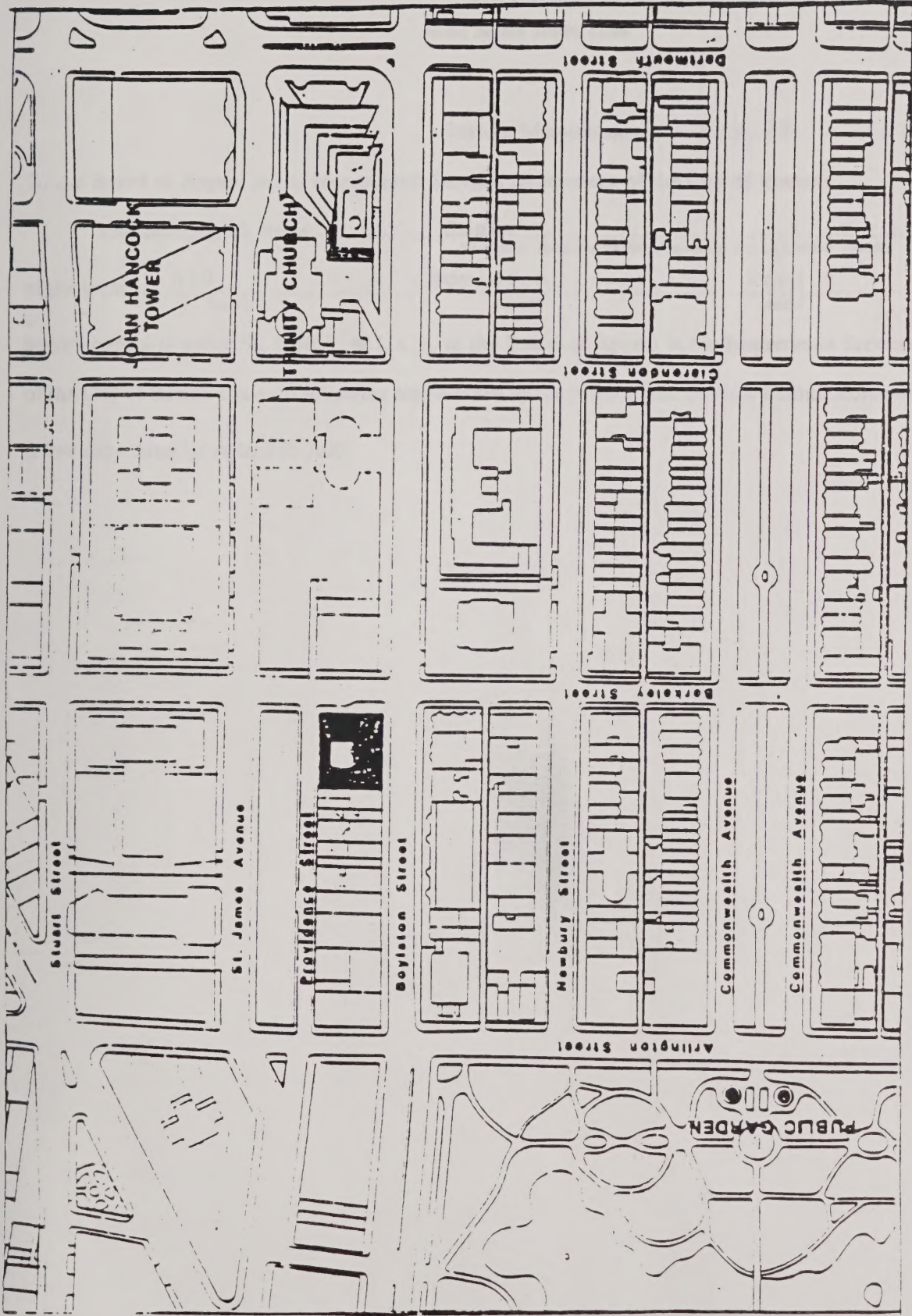
Accordingly, A.W. Perry has filed a petition with the Board of Appeal to obtain relief from the parapet setback requirements imposed by Text Amendment No. 87. Text Amendment No. 87 provides that setback of parapet in a B-8-120c zone, such as that in which the building is located, is subject to Article 6A. Article 6A provides that the relief necessary is granted by way of exception and requires that the Boston Redevelopment Authority certify to the Board of Appeal that the proposed project has been subject to design review, as has been the case with respect to this project.

We, therefore, recommend the following:

VOTED: That in reference to the petition of A.W. Perry for an exception for setback of parapet consistent with the plans for 420 Boylston Street previously submitted and given Conditional Design Development

Approval by the Director of the Boston Redevelopment Authority on May 4, 1987, the Authority reaffirms its recommendation of the approval of the exceptions, provided that the final design plans are approved by the Director of the Authority.

VOTED: That the Boston Redevelopment Authority hereby certifies that the project has been subject to design review.



LOCATION PLAN

(An appeal under the Boston Zoning Code to the Board of Appeal must be in writing on this form and filed in quadruplicate with the Inspectional Services Commissioner of the City of Boston, who shall retain one for his files and transmit one to the Board of Appeal, one to the Boston Redevelopment Authority, and the other to the Zoning Commission.)

APPEAL

under Boston Zoning Code

Boston, Massachusetts,.....May...28....., 19..87

To the Board of Appeal in the Inspectional Services Department of the City of Boston:

The undersigned, being.....Owner.....
Here insert words descriptive of interest in lot, such as the owner(s)

of the lot at.....420.....Boylston.....Ward 5.....
number street district

hereby appeal(s) under St. 1956, c. 665, s. 8, to the Board of Appeal in the Inspectional Services Department of the City of Boston from the following action taken by the Inspectional Services Commissioner on.....
date

(Here copy letter of refusal in full):

Revised Refusal
Letter

DATE: May 28, 1987

Boston

S. Maxwell Beal

ADDRESS: 20 Winthrop Square
Boston, MA.

LOCATION: 414- 426 Boylston St.

APPLICATION NO. 2070

PURPOSE: Add new seventh floor penthouse level, infill portion of existing six story light well.

DATE FILED:

WARD: 5 ZONE: B-8

RESIDENTIAL: COMMERCIAL:

YOUR APPLICATION CITED ABOVE IS HEREBY REFUSED AS SAME WOULD BE IN VIOLATION OF THE BOSTON ZONING CODE TO WIT: CHAPTER 665, ACTS OF 1956 AS AMENDED: ARTICLES:

- ☐ Section 8-7 Use Item
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- ☐ Section 7-4 IN VARIANCE WITH A FORMER DECISION OF THE BOARD OF APPEAL.
- ☐ Section 9-1 EXTENSION OF STRUCTURAL CHANGE TO A NON-CONFORMING USE.
- ☐ Section 9-2 CHANGE IN A NON-CONFORMING USE.
- ☐ Section 10-1 OFF STREET PARKING IS NOT ALLOWED WITHIN THE FRONT NOR SIDE YARD.
- ☐ Section 14-1 LOT AREA IS INSUFFICIENT.
- ☐ Section 14-2 LOT AREA FOR ADDITIONAL DWELLING UNITS IS INSUFFICIENT/NOT PROVIDED.
- ☐ Section 14-3 LOT WIDTH IS INSUFFICIENT.
- ☐ Section 14-4 LOT FRONTAGE IS INSUFFICIENT.
- ☐ Section 15-1 FLOOR AREA IS EXCESSIVE.
- ☐ Section 16-1 HEIGHT OF BUILDING EXCESSIVE.
- ☐ Section 16-8 RESTRICTED ROOF STRUCTURE DISTRICT.
- ☐ Section 17-1 USABLE OPEN SPACE IS INSUFFICIENT.
- ☐ Section 18-1 FRONT YARD IS INSUFFICIENT.
- ☐ Section 18-3 TRAFFIC VISIBILITY ACROSS CORNER IS INSUFFICIENT.
- ☐ Section 18-4 FRONT YARD (OTHER STREET) (S) IS INSUFFICIENT.
- ☐ Section 19-1 SIDE YARD IS INSUFFICIENT.
- ☐ Section 20-1 REAR YARD IS INSUFFICIENT.
- ☒ Section 21-1 SET BACK OF PARAPET IS INSUFFICIENT.
- ☐ Section 23-1 OFF STREET PARKING FACILITIES ARE INSUFFICIENT.
- ☐ Section 24-1 OFF STREET LOADING FACILITIES ARE INSUFFICIENT.
- ☐ Article 27 IPOD--INTERM PLANNING OVERLAY DISTRICT.
- ☐ OTHER

REFUSAL OF A PERMIT MAY BE APPEALED TO THE BOARD OF APPEAL WITHIN FORTY-FIVE (45) DAYS, PURSUANT TO CHAPTER 665 OF THE ACTS OF 1956, AS AMENDED THROUGH APRIL 1963.

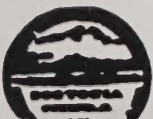
Ellen Pinkos

FOR THE COMMISSIONER,
Ellen Pinkos,
Acting Zoning Admin.

FOR THE COMMISSIONER,
Russell Forsberg,
Asst. Zoning Admin.

FOR THE COMMISSIONER,
Wilfredo Lopez,
Asst. Zoning Admin.

ZONING IS CLOSED TO THE PUBLIC ON WEDNESDAYS AND FRIDAYS.



William Sommers, Commissioner/INSPECTIONAL SERVICES/1010 Massachusetts Avenue, Boston, MA 02118

This appeal seeks an Exception and/or variance. The specific

Here insert: interpretation of Boston Zoning Code
or conditional use permit
or nonconforming use permit
or sub-standard lot permit
or transition zone permit
or variance

provision of the Boston Zoning Code involved in this appeal is Section 21-1, 21-2. More precisely, what is sought by this appeal, and the grounds on which it is claimed that what is sought should be granted, are as follows (here set forth in detail and with particularity exactly what is sought by this appeal, and the reasons therefor):

A.W. Perry, Inc. (the "Appellant") proposes to rehabilitate an existing building at 420 Boylston Street (the "Building") and to enlarge the existing Building by filling in an existing light well and adding a penthouse level which will be surrounded by a reconstructed ornamental balustrade, reminiscent of the building's original balustrade which was demolished approximately fifty years ago because of its structural defects (such rehabilitation and new construction hereinafter referred to as the "Project"). The Project will increase the gross floor area of the Building by approximately 20,000 square feet and will increase the height of the existing parapet wall of the building by approximately 10 feet. The Building is located in a B-8-120c District and has been designated a Landmark by the Boston Landmark Commission.

The Project was the subject matter of a prior successful appeal filed on December 30, 1986. That appeal sought an Interim Planning Permit and a parapet setback variance under the then effective Boylston Street Interim Planning Overlay District Interim Controls. Additionally, the appeal sought a variance from the off-street loading facilities requirements of the Zoning Code and a variance from Article 28 of the Code relating to the Boston Civic Design Commission, or an interpretation that Article 28 was inapplicable to the Project. The appeal was heard by the Board of Appeal on February 24, 1987, and the Board issued a decision which was recorded in the Inspectional Services Department On April 10, 1987. The Board, in its decision, granted an Interim Planning Permit pursuant to Section 27B of the Code, issued the off-street loading variance, found and ruled that Article 28 of the Code was inapplicable to the Project, and granted a variance from the then existing parapet setback requirements as established by the Boylston Street Interim Planning Overlay District. Subsequent to the Board's hearing on February 24, 1987, the Zoning Commission publicly advertised a proposed amendment to the Zoning Code to establish certain permanent zoning for the Boylston Interim Planning Overlay District. Before the Board of Appeal decision granting the variance from the parapet setback requirement of the Boylston Street IPOD was recorded, permanent zoning for the area was enacted. Although the permanent zoning is functionally very similar to the IPOD provisions, the Project, nevertheless, requires zoning relief from the newly applicable permanent zoning provisions since no building permit had issued prior to the effective date of such permanent zoning.

Appellant A.W. Perry, Inc.
by its attorneys, McCormack & Putziger
By.....

Address 265 Franklin Street.....

Telephone number (617) 439-4100.....

Accordingly, in this appeal the Appellant seeks relief from the newly established parapet setback requirements for the reasons previously enumerated in its earlier appeal. In the case of the Boylston Street side of the Building this relief appears to be in the nature of an exception, however if a variance is necessary on the Boylston Street side, Appellant requests the same. The single most important architectural contribution of the Project is the re-creation of the building's ornamental balustrade. The balustrade is to be supported structurally by a glass wall penthouse, the revenue from which will also "support" the development cost of the re-creation of the balustrade. Because the parapet wall of the penthouse will be a vertical extension of the existing parapet wall, without any setback, the Project will not comply with the 15 foot parapet setback at heights greater than 90 feet as required by Article 21, Section 21-2(d) as established by Section 11 of Text Amendment No. 87. Since the Project will not provide a setback of parapet, and will be approximately 95 feet to the top of the parapet wall, the Project exceeds the 90 foot limitation by approximately 5 feet. The Appellant suggests that the landmark restrictions upon the Building would not permit a parapet setback and the provision of the setback would render infeasible the restoration of a balustrade to the original height at its original location.

The newly applicable setback requirements established in Text Amendment No. 87 also reinstate a setback requirement on the Providence Street side of the Building of approximately ten feet for the infill of the existing light well for all of such infill above a height of 25 feet, and for the penthouse level including the balustrade. The rationale for the granting of parapet setback relief on the Boylston Street side of the Building applies with equal force to the Providence Street portion of the Building, as well, and supports the granting of an exception, or if necessary a variance for the small deviation presented.